

CHAPTER TWO

MODULE 1

LEGAL ASPECTS OF LAW ENFORCEMENT DRIVING

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GOAL

Make law enforcement officers aware of the legal ramifications of law enforcement driving, with special attention to tort and constitutional liability for improper actions.

CURRICULUM OBJECTIVES

- 1.1 Identify statutory law, case law, agency policy, and principles of liability governing non-emergency driving.
- 1.2 Identify statutory law, case law, agency policy, and principles of liability governing emergency driving.
- 1.3 Identify constitutional law, statutory law, and case law governing civil liability for emergency driving that “shocks the conscience” in its deprivations of constitutional rights.
- 1.4 Identify constitutional law, statutory law, and case law governing emergency driving as use of deadly force in terminating pursuits.

AN OVERVIEW OF GENERAL RULES

Unless a statutory exemption applies, an officer driving an authorized emergency vehicle is subject to the same traffic laws that govern a private citizen driving a personal vehicle.

- Law enforcement officers are never exempt from all civil and criminal law governing vehicle operation.
- Even the most serious emergency does not legally excuse a reckless disregard of the safety of others.
- Emergency exemption statutes allow officers to disregard some traffic laws under limited circumstances. Failure to meet the requirements of an exemption statute means the officer may be subject to civil and criminal penalties in the event of a collision.
- Emergency exemption statutes typically apply only while the officer is responding to an emergency or enforcing the law.
- Emergency exemption statutes typically require operation of warning lights and a siren at all times while the exemption is claimed.
- Emergency exemption statutes require due regard for the safety of others and do not

excuse reckless disregard of the safety of others.

Negligence in law enforcement driving is the failure to use the care a reasonable officer would use under like circumstances. Willful recklessness is a disregard of a clear risk of serious harm.

- Negligent driving may result in civil liability against the officer, the officer's supervisor, and the officer's employing agency, although many states grant immunity from civil liability based on ordinary negligence.
- Willful, reckless driving causing a fatality may result in an officer's conviction for felonious involuntary manslaughter, and may disqualify the officer from employment in law enforcement.

In many states, negligence or recklessness in failing to terminate a dangerous pursuit may result in civil liability if the fleeing suspect's car hits an innocent bystander.

Officers who conduct pursuits that “shock the conscience” in the potential harm to the public, risk liability under federal constitutional law.

Use of a law enforcement vehicle as an instrumentality of force to effect an arrest of a fleeing suspect may be deadly force. Roadblocks and ramming may be violations of constitutional rights if the use of deadly force is unreasonable under the circumstances.